
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

JAMES ISHMAEL TIBBS.

Plaintiff,

versus

LARRY GIST, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:08-CV-546

**MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff James Ishmael Tibbs, an inmate confined at the Terrell Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge recommending this lawsuit be dismissed without prejudice pursuant to 28 U.S.C. § 1915(g).

The court has received the Report and Recommendation, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the Report and Recommendation.

The court has conducted a *de novo* review of the objections asserted by plaintiff. After careful consideration, the court is of the opinion that the objections are without merit.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered dismissing this lawsuit.

SIGNED at Beaumont, Texas, this 3rd day of November, 2008.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE